

AMENDED IN ASSEMBLY JULY 1, 2013

AMENDED IN ASSEMBLY JUNE 19, 2013

SENATE BILL

No. 483

Introduced by Senator Jackson

February 21, 2013

An act to amend ~~Section~~ *Sections 13143.9 and 25214.14* of, and to repeal and add Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 483, as amended, Jackson. Hazardous materials: business and area ~~plans~~: *plans: packaging*.

(1) Existing law requires the Secretary for Environmental Protection to adopt regulations and implement a unified hazardous waste and hazardous materials management regulatory program. Existing law establishes the respective responsibilities of unified program agencies, designated to implement that unified program, locally, and requires the secretary to establish a statewide information management system for purposes of receiving data collected by unified program agencies.

Existing law establishes the responsibility of a local administering agency authorized to implement and enforce provisions that require (a) the administering agency to establish area plans for emergency response to a release or threatened release of a hazardous material and (b) a business that handles a hazardous material to establish and implement a business plan for such a response. Existing law authorizes a unified program agency to implement and enforce these provisions as an administering agency, as specified.

Existing law specifies the contents of the business plan required of the hazardous materials handler and requires the plan to be submitted to the administering agency. Existing law requires the administering agency to submit to the Office of Emergency Services, the area plan, a plan to conduct onsite inspection, and a plan to institute a data management system. A violation of the business plan requirements is a misdemeanor.

This bill would revise and recast the area and business plan requirements and, among other things, would require instead that a unified program agency enforce these requirements. The bill would instead require the inspection program that is part of the unified program to include the onsite inspections of businesses and would delete the requirement to institute a data management system. The bill would require the unified program agency to provide to agencies that have certain shared responsibilities access to information collected in the statewide information management system and would require handlers to submit certain information to that system, as specified.

The bill would also delete obsolete provisions and make general conforming changes.

The bill would impose a state-mandated local program by creating new crimes with regard to the submission of business plans and by imposing new duties upon local agencies with regard to implementing those requirements.

(2) Existing law prohibits a person from offering for sale or for promotional purposes in this state a package, packaging component, or product in a package if the sum of the incidental total concentration levels of regulated metals exceeds a specified level in the package or packaging component. Until January 1, 2010, existing law exempted from that prohibition a package or packaging component if a manufacturer or supplier complied with certain documentation requirements and the package or packaging component contained no intentionally introduced regulated metals, but exceeded the applicable maximum concentration level set only because of the addition of a recycled material.

This bill would reenact and extend that exemption to January 1, 2015.

~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13143.9 of the Health and Safety Code
2 is amended to read:

3 13143.9. (a) The State Fire Marshal shall, in carrying out
4 Section 13143, prepare, adopt, and submit building standards and
5 other fire and life safety regulations for approval pursuant to
6 Chapter 4 (commencing with Section 18935) of Part 2.5 of Division
7 13 establishing minimum requirements for the storage, handling,
8 and use of hazardous materials, as defined, in the California Fire
9 Code. The State Fire Marshal shall seek the advice of the Office
10 of Emergency Services in establishing these requirements. This
11 section does not prohibit a city, county, or district from adopting
12 an ordinance, resolution, or regulation imposing stricter or more
13 stringent requirements than a standard adopted pursuant to this
14 section.

15 (b) A business that files the annual inventory form in compliance
16 with Chapter 6.95 (commencing with Section 25500) of Division
17 20, including the addendum adopted pursuant to paragraph (4) of
18 subdivision (e) of Section 25504, shall be deemed to have met the
19 requirements of the California Fire Code regarding hazardous
20 materials inventory statements, as adopted by the State Fire
21 Marshal pursuant to this section.

22 (c) A business that is not required to file a hazardous materials
23 inventory form pursuant to Section 25506 but that is required by
24 the local fire chief to comply with the California Fire Code
25 regarding hazardous materials inventory statements, as adopted
26 by the State Fire Marshal pursuant to this section, shall,
27 notwithstanding Chapter 6.95 (commencing with Section 25500)
28 of Division 20, file the inventory form adopted pursuant to Section
29 25506 and the addendum adopted pursuant to paragraph (4) of
30 subdivision (e) of Section 25504 with the local fire chief for
31 purposes of complying with this requirement, if determined to be
32 necessary by the fire chief.

1 *SEC. 2. Section 25214.14 of the Health and Safety Code is*
2 *amended to read:*

3 25214.14. A package or a packaging component is exempt
4 from the requirements of Section 25214.13, and shall be deemed
5 in compliance with this article, if the manufacturer or supplier
6 complies with the applicable documentation requirements specified
7 in Section 25214.15 and the package or packaging component
8 meets any of the following conditions:

9 (a) The package or packaging component is marked with a code
10 indicating a date of manufacture prior to January 1, 2006.

11 (b) A regulated metal has been added to the package or
12 packaging component in the manufacturing, forming, printing, or
13 distribution process, to comply with the health or safety
14 requirements of a federal or state law.

15 (c) (1) The package or packaging component contains no
16 intentionally introduced regulated metals, but exceeds the
17 applicable maximum concentration level set forth in subdivision
18 (c) of Section 25214.13 only because of the addition of a recycled
19 material.

20 (2) This subdivision, and all exemptions provided pursuant to
21 it, expire on January 1, ~~2010~~ 2015.

22 (d) (1) A regulated metal has been added to the package or
23 packaging component in the manufacturing, forming, printing, or
24 distribution process for a use for which there is no feasible
25 alternative.

26 (2) For purposes of this subdivision, “a use for which there is
27 no feasible alternative” means a use, other than for purposes of
28 marketing, for which a regulated metal is essential to the protection,
29 safe handling, or function, of the package’s contents, and technical
30 constraints preclude the substitution of other materials.

31 (e) (1) The package or packaging component is reused and
32 contains no intentionally introduced regulated metals, but exceeds
33 the applicable maximum concentration level set forth in subdivision
34 (c) of Section 25214.13, and all of the following apply:

35 (A) The product being conveyed by the package, the package,
36 or packaging component is otherwise regulated under a federal or
37 state health or safety requirement.

38 (B) The transportation of the packaged product is regulated
39 under federal or state transportation requirements.

1 (C) The disposal of the package is otherwise performed
2 according to the requirements of this chapter or Chapter 8
3 (commencing with Section 114960) of Part 9 of Division 104.

4 (2) This subdivision, and all exemptions provided pursuant to
5 it, expire on January 1, 2010.

6 (f) (1) The package or packaging component has a controlled
7 distribution and reuse and contains no intentionally introduced
8 regulated metals, but exceeds the applicable maximum
9 concentration level set forth in subdivision (c) of Section 25214.13.

10 (2) This subdivision, and all exemptions provided pursuant to
11 it, expire on January 1, 2010.

12 (g) (1) The packaging or packaging component is a glass or
13 ceramic package or packaging component that has a vitrified label,
14 and that, when tested in accordance with the Waste Extraction
15 Test, described in Appendix II of Chapter 11 (commencing with
16 Section 66261.1) of Division 4.5 of Title 22 of the California Code
17 of Regulations does not exceed 1.0 ppm for cadmium, 5.0 ppm
18 for hexavalent chromium, or 5.0 ppm for lead. A glass or ceramic
19 package or packaging component containing mercury is not
20 exempted pursuant to this subdivision.

21 (2) A glass bottle package with paint or applied ceramic
22 decoration on the bottle does not qualify for an exemption pursuant
23 to this section, if the paint or applied ceramic decoration contains
24 lead or lead compounds in excess of 0.06 percent by weight.

25 (3) This subdivision, and all exemptions provided pursuant to
26 it, expire on January 1, 2010.

27 ~~SEC. 2.~~

28 *SEC. 3.* Article 1 (commencing with Section 25500) of Chapter
29 6.95 of Division 20 of the Health and Safety Code is repealed.

30 ~~SEC. 3.~~

31 *SEC. 4.* Article 1 (commencing with Section 25500) is added
32 to Chapter 6.95 of Division 20 of the Health and Safety Code, to
33 read:

34
35 Article 1. Business and Area Plans
36

37 25500. (a) The Legislature declares that, in order to protect
38 the public health and safety and the environment, it is necessary
39 to establish business and area plans relating to the handling and
40 release or threatened release of hazardous materials. The

1 establishment of a statewide environmental reporting system for
2 these plans is a statewide requirement. Basic information on the
3 location, type, quantity, and health risks of hazardous materials
4 handled, used, stored, or disposed of in the state, which could be
5 accidentally released into the environment, is required to be
6 submitted to firefighters, health officials, planners, public safety
7 officers, health care providers, regulatory agencies, and other
8 interested persons. The information provided by business and area
9 plans is necessary in order to prevent or mitigate the damage to
10 the health and safety of persons and the environment from the
11 release or threatened release of hazardous materials into the
12 workplace and environment.

13 (b) The Legislature further finds and declares that this article
14 and Article 2 (commencing with Section 25531) do not occupy
15 the whole area of regulating the inventorying of hazardous
16 materials and the preparation of hazardous materials response plans
17 by businesses, and the Legislature does not intend to preempt any
18 local actions, ordinances, or regulations that impose additional or
19 more stringent requirements on businesses that handle hazardous
20 materials. Thus, in enacting this article and Article 2 (commencing
21 with Section 25531), it is not the intent of the Legislature to
22 preempt or otherwise nullify any other statute or local ordinance
23 containing the same or greater standards and protections.

24 25501. Unless the context indicates otherwise, the following
25 definitions govern the construction of this article:

26 (a) “Agricultural handler” means a business operating a farm
27 that is subject to the exemption specified in Section 25507.1.

28 (b) “Area plan” means a plan established pursuant to Section
29 25503 by a unified program agency for emergency response to a
30 release or threatened release of a hazardous material within a city
31 or county.

32 (c) “Business” means all of the following:

33 (1) An employer, self-employed individual, trust, firm, joint
34 stock company, corporation, partnership, or association.

35 (2) A business organized for profit and a nonprofit business.

36 (3) The federal government, to the extent authorized by law.

37 (4) An agency, department, office, board, commission, or bureau
38 of state government, including, but not limited to, the campuses
39 of the California Community Colleges, the California State
40 University, and the University of California.

1 (5) An agency, department, office, board, commission, or bureau
2 of a city, county, or district.

3 (d) “Business plan” means a separate plan for each facility, site,
4 or branch of a business that meets the requirements of Section
5 25505.

6 (e) “Certification statement” means a certification by the
7 business owner, operator, or officially designated representative
8 that attests to all of the following:

9 (1) The information last submitted to the statewide information
10 management system is complete, accurate, and up to date.

11 (2) There has been no change in the quantity of any hazardous
12 material, as most recently submitted to the statewide information
13 management system.

14 (3) No hazardous materials subject to the inventory requirements
15 of this article are being handled that are not listed on the inventory
16 most recently submitted to the statewide information management
17 system.

18 (4) The information most recently submitted to the statewide
19 information management system contains the information required
20 by Section 11022 of Title 42 of the United States Code.

21 (f) (1) “Certified Unified Program Agency” or “CUPA” means
22 the agency certified by the secretary to implement the unified
23 program specified in Chapter 6.11 (commencing with Section
24 25404) within a jurisdiction.

25 (2) “Participating Agency” or “PA” means an agency that has
26 a written agreement with the CUPA pursuant to subdivision (d)
27 of Section 25404.3, and is approved by the secretary, to implement
28 or enforce one or more of the unified program elements specified
29 in paragraphs (4) and (5) of subdivision (c) of Section 25404, in
30 accordance with Sections 25404.1 and 25404.2.

31 (3) (A) “Unified program agency” or “UPA” means the CUPA,
32 or its participating agencies to the extent each PA has been
33 designated by the CUPA, pursuant to a written agreement, to
34 implement or enforce a particular unified program element
35 specified in paragraphs (4) and (5) of subdivision (c) of Section
36 25404. For purposes of this article and Article 2 (commencing
37 with Section 25531), the UPAs have the responsibility and
38 authority, to the extent provided by this article and Article 2
39 (commencing with Section 25531) and Sections 25404.1 and
40 25404.2, to implement and enforce only those requirements of this

1 article and Article 2 (commencing with Section 25531) listed in
2 paragraphs (4) and (5) of subdivision (c) of Section 25404.

3 ~~(4)~~

4 (B) For purposes of subdivision (b) of Section 25532,
5 “administering agency” means the unified program agency.

6 ~~(B)~~

7 (4) The UPAs also have the responsibility and authority, to the
8 extent provided by this article and Article 2 (commencing with
9 Section 25531) and Sections 25404.1 and 25404.2, to implement
10 and enforce the regulations adopted to implement the requirements
11 of this article and Article 2 (commencing with Section 25531)
12 listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.
13 After a CUPA has been certified by the secretary, the unified
14 program agencies shall be the only local agencies authorized to
15 enforce the requirements of this article and Article 2 (commencing
16 with Section 25531) listed in paragraphs (4) and (5) of subdivision
17 (c) of Section 25404 within the jurisdiction of the CUPA.

18 (g) “City” includes any city and county.

19 (h) “Chemical name” means the scientific designation of a
20 substance in accordance with the nomenclature system developed
21 by the International Union of Pure and Applied Chemistry or the
22 system developed by the Chemical Abstracts Service.

23 (i) “Common name” means any designation or identification,
24 such as a code name, code number, trade name, or brand name,
25 used to identify a substance by other than its chemical name.

26 (j) “Compressed gas” means a material, or mixture of materials,
27 that meets either of the following:

28 (1) The definition of compressed fluid or cryogenic fluid found
29 in the California Fire Code.

30 (2) Compressed gas that is regulated pursuant to Part 1
31 (commencing with Section 6300) of Division 5 of the Labor Code.

32 (k) “Emergency rescue personnel” means a public employee,
33 including, but not limited to, a firefighter or emergency rescue
34 personnel, as defined in Section 245.1 of the Penal Code, or
35 personnel of a local EMS agency, as designated pursuant to Section
36 1797.200, or a poison control center, as defined by Section
37 1797.97, who responds to any condition caused, in whole or in
38 part, by a hazardous material that jeopardizes, or could jeopardize,
39 public health or safety or the environment.

40 (l) “Handle” means all of the following:

1 (1) (A) To use, generate, process, produce, package, treat, store,
2 emit, discharge, or dispose of a hazardous material in any fashion.

3 (B) For purposes of subparagraph (A), “store” does not include
4 the storage of hazardous materials incidental to transportation, as
5 defined in Title 49 of the Code of Federal Regulations, with regard
6 to the inventory requirements of Section 25506.

7 (2) (A) The use or potential for use of a quantity of hazardous
8 material by the connection of a marine vessel, tank vehicle, tank
9 car, or container to a system or process for any purpose.

10 (B) For purposes of subparagraph (A), the use or potential use
11 does not include the immediate transfer to or from an approved
12 atmospheric tank or approved portable tank that is regulated as
13 loading or unloading incidental to transportation by Title 49 of the
14 Code of Federal Regulations.

15 (m) “Handler” means a business that handles a hazardous
16 material.

17 (n) “Hazardous material” means a material that, because of its
18 quantity, concentration, or physical or chemical characteristics,
19 poses a significant present or potential hazard to human health and
20 safety or to the environment if released into the workplace or the
21 environment. “Hazardous materials” include, but are not limited
22 to, hazardous substances, hazardous waste, and any material that
23 a handler or the unified program agency has a reasonable basis for
24 believing that it would be injurious to the health and safety of
25 persons or harmful to the environment if released into the
26 workplace or the environment.

27 (o) “Hazardous substance” means any substance or chemical
28 product for which one of the following applies:

29 (1) The manufacturer or producer is required to prepare a
30 Material Safety Data Sheet (MSDS) for the substance or product
31 pursuant to the Hazardous Substances Information and Training
32 Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of
33 Division 5 of the Labor Code) or pursuant to any applicable federal
34 law or regulation.

35 (2) The substance is listed as a radioactive material in Appendix
36 B of Chapter 1 (commencing with Section 10.1) of Title 10 of the
37 Code of Federal Regulations, maintained and updated by the
38 Nuclear Regulatory Commission.

39 (3) Hazardous materials or substances listed in Part 172
40 (commencing with Section 172.1) and Part 173 (commencing with

1 Section 173.1) of Subchapter C of Chapter I of Subtitle B of Title
2 49 of the Code of Federal Regulations.

3 (4) The materials in the listings specified in subdivision (b) of
4 Section 6382 of the Labor Code.

5 (p) “Hazardous waste” means hazardous waste, as defined by
6 Sections 25115 and 25117 and by subdivision (g) of Section 25316.

7 (q) “Office” means the Office of Emergency Services.

8 (r) “Release” means any spilling, leaking, pumping, pouring,
9 emitting, emptying, discharging, injecting, escaping, leaching,
10 dumping, or disposing into the environment, unless permitted or
11 authorized by a regulatory agency.

12 (s) “Secretary” means the Secretary for Environmental
13 Protection.

14 (t) ~~“SIC and NAISC Codes or NAICS Code”~~ means the
15 identification number assigned by the Standard Industrial
16 Classification Code or the North American Industry Classification
17 System, as applicable, to specific types of businesses.

18 (u) “Statewide information management system” means the
19 statewide information management system established pursuant
20 to subdivision (e) of Section 25404 that provides for the
21 combination of state and local information management systems
22 for the purposes of managing unified program data.

23 (v) “Threatened release” means a condition creating a substantial
24 probability of harm, when the probability and potential extent of
25 harm make it reasonably necessary to take immediate action to
26 prevent, reduce, or mitigate damages to persons, property, or the
27 environment.

28 (w) “Trade secret” means trade secrets as defined in either
29 subdivision (d) of Section 6254.7 of the Government Code or
30 Section 1061 of the Evidence Code.

31 (x) “Unified program facility” means all contiguous land and
32 structures, other appurtenances, and improvements on the land
33 that are subject to the requirements of paragraphs (4) and (5) of
34 subdivision (c) of Section 25404.

35 25502. (a) This article and Article 3 (commencing with Section
36 25545), as it pertains to the handling of hazardous material, and
37 Article 2 (commencing with Section 25531), as it pertains to the
38 regulation of stationary sources, shall be implemented by one of
39 the following:

40 (1) If there is a CUPA, the unified program agency.

1 (2) If there is no CUPA, the agency authorized pursuant to
2 subdivision (f) of Section 25404.3.

3 (b) The agency responsible for implementing this article, Article
4 2 (commencing with Section 25531), and Article 3 (commencing
5 with Section 25545) shall ensure full access to, and the availability
6 of, information submitted under this chapter to emergency rescue
7 personnel and other appropriate governmental entities within its
8 jurisdiction.

9 25503. (a) The office shall adopt, after public hearing and
10 consultation with the Office of the State Fire Marshal and other
11 appropriate public entities, regulations for minimum standards for
12 business plans and area plans. All business plans and area plans
13 shall meet the standards adopted by the office.

14 (b) The standards for business plans in the regulations adopted
15 pursuant to subdivision (a) shall do all of the following:

16 (1) Set forth minimum requirements of adequacy, and not
17 preclude the imposition of additional or more stringent
18 requirements by local government.

19 (2) Take into consideration and adjust for the size and nature
20 of the business, the proximity of the business to residential areas
21 and other populations, and the nature of the damage potential of
22 its hazardous materials in establishing standards for paragraphs
23 (3) and (4) of subdivision (a) of Section 25505.

24 (3) Take into account the existence of local area and business
25 plans that meet the requirements of this article so as to minimize
26 the duplication of local efforts, consistent with the objectives of
27 this article.

28 (4) Define what releases and threatened releases are required
29 to be reported pursuant to Section 25510. The office shall consider
30 the existing federal reporting requirements in determining a
31 definition of reporting releases pursuant to Section 25510.

32 (c) A unified program agency shall, in consultation with local
33 emergency response agencies, establish an area plan for emergency
34 response to a release or threatened release of a hazardous material
35 within its jurisdiction. An area plan is not a statute, ordinance, or
36 regulation for purposes of Section 669 of the Evidence Code. The
37 standards for area plans in the regulations adopted pursuant to
38 subdivision (a) shall provide for all of the following:

39 (1) Procedures and protocols for emergency rescue personnel,
40 including the safety and health of those personnel.

- 1 (2) Preemergency planning.
- 2 (3) Notification and coordination of onsite activities with state,
- 3 local, and federal agencies, responsible parties, and special districts.
- 4 (4) Training of appropriate employees.
- 5 (5) Onsite public safety and information.
- 6 (6) Required supplies and equipment.
- 7 (7) Access to emergency response contractors and hazardous
- 8 waste disposal sites.
- 9 (8) Incident critique and followup.
- 10 (9) Requirements for notification to the office of reports made
- 11 pursuant to Section 25510.
- 12 (d) (1) The unified program agency shall submit to the office
- 13 for its review a copy of the proposed area plan within 180 days
- 14 after adoption of regulations by the office. The office shall notify
- 15 the unified program agency as to whether the area plan is adequate
- 16 and meets the area plan standards. The unified program agency
- 17 shall submit a corrected area plan within 45 days of this notice.
- 18 (2) The unified program agency shall certify to the office every
- 19 three years that it has conducted a complete review of its area plan
- 20 and has made any necessary revisions. If a unified program agency
- 21 makes a substantial change to its area plan, it shall forward the
- 22 changes to the office within 14 days after the changes have been
- 23 made.
- 24 (e) The inspection and enforcement program established
- 25 pursuant to paragraphs (2) and (3) of subdivision (a) of Section
- 26 25404.2, shall include the basic provisions of a plan to conduct
- 27 onsite inspections of businesses subject to this article by the unified
- 28 program agency. These inspections shall ensure compliance with
- 29 this article and shall identify existing safety hazards that could
- 30 cause or contribute to a release and, where appropriate, enforce
- 31 any applicable laws and suggest preventative measures designed
- 32 to minimize the risk of the release of hazardous material into the
- 33 workplace or environment. The requirements of this paragraph do
- 34 not alter or affect the immunity provided to a public entity pursuant
- 35 to Section 818.6 of the Government Code.
- 36 25504. (a) The Legislature hereby finds and declares that
- 37 persons attempting to do business in this state are increasingly
- 38 experiencing excessive and duplicative regulatory requirements
- 39 at different levels of government.

1 (b) To streamline and ease the regulatory burdens of doing
2 business in this state, compliance with Section 25505 shall also
3 suffice to meet the requirements for a Hazardous Materials
4 Management Plan and the Hazardous Materials Inventory
5 Statement as set forth in the California Fire Code and its
6 appendices, to the extent that the information in the California Fire
7 Code is contained in Section 25505.

8 (c) The unified program agency shall provide access to the
9 information collected in the statewide information management
10 system to those agencies with shared responsibilities for the
11 protection of the public health and safety and the environment.

12 (d) The enforcement of this article by unified program agencies
13 and the California Fire Code by those agencies required to enforce
14 the provisions of that code shall be coordinated.

15 (e) (1) Notwithstanding Section 13143.9, and the standards and
16 regulations adopted pursuant to that section, a business that files
17 the annual inventory form in compliance with this article and the
18 addendum adopted pursuant to paragraph (4), if required by the
19 local fire chief, shall be deemed to have met the requirements for
20 a Hazardous Materials Inventory Statement, as set forth in the
21 California Fire Code and its appendices.

22 (2) Notwithstanding Section 13143.9, and the standards and
23 regulations adopted pursuant to that section, a business that
24 establishes and maintains a business plan for emergency response
25 to a release or a threatened release of a hazardous material in
26 accordance with Section 25505, shall be deemed to have met the
27 requirements for a Hazardous Materials Management Plan, as set
28 forth in the California Fire Code and its appendices.

29 (3) Except for the addendum required by the local fire chief
30 pursuant to paragraph (4), the unified program agency shall be the
31 sole enforcement agency for purposes of determining compliance
32 pursuant to paragraphs (1) and (2).

33 (4) The office shall, in consultation with the unified program
34 agencies and the State Fire Marshal, adopt by regulation a single
35 comprehensive addendum for hazardous materials reporting for
36 the purposes of complying with subdivisions (b) and (c) of Section
37 13143.9 and subdivision (b) of Section 25506. The unified program
38 agency shall require businesses to annually use that addendum
39 when complying with subdivisions (b) and (c) of Section 13143.9
40 and subdivision (b) of Section 25506. A business shall file the

1 addendum with the unified program agency when required by the
2 local fire chief pursuant to subdivision (b) of Section 25506.

3 (f) Except as otherwise expressly provided in this section, this
4 section does not affect or otherwise limit the authority of the local
5 fire chief to enforce the California Fire Code.

6 25505. (a) A business plan shall include all of the following
7 information:

8 (1) The inventory of information required by Section 25506 and
9 whatever additional information the unified program agency finds
10 is necessary to protect the health and safety of persons, property,
11 or the environment. This information shall be subject to trade secret
12 protection specified in Section 25512.

13 (2) Emergency response plans and procedures in the event of a
14 reportable release or threatened release of a hazardous material,
15 including, but not limited to, all of the following:

16 (A) Immediate notification to the appropriate local emergency
17 rescue personnel and to the unified program agency.

18 (B) Procedures for the mitigation of a release or threatened
19 release to minimize any potential harm or damage to persons,
20 property, or the environment.

21 (C) Evacuation plans and procedures, including immediate
22 notice, for the business site.

23 (3) Training for all new employees and annual training,
24 including refresher courses, for all employees in safety procedures
25 in the event of a release or threatened release of a hazardous
26 material, including, but not limited to, familiarity with the plans
27 and procedures specified in paragraph (2). These training programs
28 may take into consideration the position of each employee. This
29 training shall be documented electronically or by hard copy and
30 shall be made available for a minimum of three years.

31 (b) A business required to file a pipeline operations contingency
32 plan in accordance with the California Pipeline Safety Act of 1981
33 (Chapter 5.5 (commencing with Section 51010) of Part 1 of
34 Division 1 of Title 5 of the Government Code) and the regulations
35 of the Department of Transportation, found in Part 195
36 (commencing with Section 195.1) of Subchapter D of Chapter I
37 of Subtitle B of Title 49 of the Code of Federal Regulations, may
38 file a copy of those plans with the unified program agency instead
39 of filing an emergency response plan specified in paragraph (3)
40 of subdivision (a).

1 25505.1. A business that is required to establish and implement
2 a business plan pursuant to Section 25507 and is located on leased
3 or rented real property shall notify, in writing, the owner of the
4 property that the business is subject to Section 25507 and has
5 complied with its provisions, and shall provide a copy of the
6 business plan to the owner or the owner's agent within five working
7 days after receiving a request for a copy from the owner or the
8 owner's agent.

9 25506. (a) The annual inventory submittal shall include, but
10 shall not be limited to, information on all of the following that are
11 handled in quantities equal to or greater than the quantities
12 specified in subdivision (a) of Section 25507:

13 (1) A listing of the chemical name and common names of every
14 hazardous substance or chemical product handled by the business.

15 (2) The category of waste, including the general chemical
16 composition of the waste listed by probable maximum and
17 minimum concentrations, of every hazardous waste handled by
18 the business.

19 (3) A listing of the chemical name and common names of every
20 other hazardous material or mixture containing a hazardous
21 material handled by the business that is not otherwise listed
22 pursuant to paragraph (1) or (2).

23 (4) The maximum amount of each hazardous material or mixture
24 containing a hazardous material disclosed in paragraphs (1), (2),
25 and (3) that is handled at any one time by the business over the
26 course of the year.

27 (5) The total estimated amounts of each hazardous waste handled
28 by the business throughout the course of the year.

29 (6) Sufficient information on how and where the hazardous
30 materials disclosed in paragraphs (1), (2), and (3) are handled by
31 the business to allow fire, safety, health, and other appropriate
32 personnel to prepare adequate emergency responses to potential
33 releases of the hazardous materials.

34 (7) The ~~SIC and NAICS Codes~~ *SIC or NAICS Code* for the business,
35 to the extent that applicable codes exist that represent that business.

36 (8) The name and telephone number of the person representing
37 the business and able to assist emergency personnel in the event
38 of an emergency involving the business during nonbusiness hours.

1 (b) If required by the local fire chief, the business shall also file
2 the addendum required by paragraph (4) of subdivision (e) of
3 Section 25504.

4 (c) (1) Except as provided in subdivision (d), the annual
5 inventory information required by this section shall also include
6 all inventory information required by Section 11022 of Title 42
7 of the United States Code.

8 (2) The office may adopt or amend existing regulations
9 specifying the inventory information required by this subdivision.

10 (d) If, pursuant to federal law or regulation, as it currently exists
11 or as it may be amended, the office determines that the inventory
12 information required by subdivisions (a) and (c) is substantially
13 equivalent to the inventory information required under the
14 Emergency Planning and Community Right-to-Know Act of 1986
15 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivisions
16 (a) and (c) shall not apply.

17 25507. (a) Except as provided in this article, a business shall
18 establish and implement a business plan for emergency response
19 to a release or threatened release of a hazardous material in
20 accordance with the standards prescribed in the regulations adopted
21 pursuant to Section 25503 if the business meets any of the
22 following conditions:

23 (1) The business handles a hazardous material or a mixture
24 containing a hazardous material that has a quantity at any one time
25 during the reporting year that is equal to, or greater than, 55 gallons
26 for materials that are liquids, 500 pounds for solids, or 200 cubic
27 feet for compressed gas. The physical state and quantity present
28 of mixtures shall be determined by the physical state of the mixture
29 as whole, not individual components, at standard temperature and
30 pressure.

31 (2) The business is required to submit chemical inventory
32 information pursuant to Section 11022 of Title 42 of the United
33 States Code.

34 (3) The business handles at any one time during the reporting
35 year an amount of a hazardous material that is equal to, or greater
36 than the threshold planning quantity, under both of the following
37 conditions:

38 (A) The hazardous material is an extremely hazardous substance,
39 as defined in Section 355.61 of Title 40 of the Code of Federal
40 Regulations.

1 (B) The threshold planning quantity for that extremely hazardous
2 substance listed in Appendices A and B of Part 355 (commencing
3 with Section 355.1) of Subchapter J of Chapter I of Title 40 of the
4 Code of Federal Regulations is less than 500 pounds.

5 (4) (A) The business handles at any one time during the
6 reporting year a total weight of 5,000 pounds for solids and a total
7 volume of 550 gallons for liquids, if the hazardous material is a
8 solid or liquid substance that is classified as a hazard for purposes
9 of Section 5194 of Title 8 of the California Code of Regulations
10 solely as an irritant or sensitizer, unless the unified program agency
11 finds, and provides notice to the business handling the product,
12 that the handling of lesser quantities of that hazardous material
13 requires the submission of a business plan, or any portion of a
14 business plan, in response to public health, safety, or environmental
15 concerns.

16 (B) The unified program agency shall make the findings required
17 by subparagraph (A) in consultation with the local fire chief.

18 (5) (A) The business handles at any one time during the
19 reporting year a total of 1,000 cubic feet, if the hazardous material
20 is a compressed gas and is classified as a hazard for the purposes
21 of Section 5194 of Title 8 of the California Code of Regulations
22 solely as a compressed gas, unless the unified program agency
23 finds, and provides notice to the business handling the product,
24 that the handling of lesser quantities of that hazardous material
25 requires the submission of a business plan, or any portion thereof,
26 in response to public health, safety, or environmental concerns.

27 (B) The unified program agency shall make the findings required
28 by subparagraph (A) in consultation with the local fire chief.

29 (C) The hazardous materials subject to subparagraph (A) include
30 a gas for which the only health and physical hazards are simple
31 asphyxiation and the release of pressure.

32 (D) The hazardous materials subject to subparagraph (A) do
33 not include gases in a cryogenic state.

34 (6) The business handles a radioactive material at any one time
35 during the reporting year that is handled in quantities for which
36 an emergency plan is required to be adopted pursuant to Part 30
37 (commencing with Section 30.1), Part 40 (commencing with
38 Section 40.1), or Part 70 (commencing with Section 70.1), of
39 Chapter 1 of Title 10 of the Code of Federal Regulations, or

1 pursuant to any regulations adopted by the state in accordance with
2 those regulations.

3 (7) The business handles perchlorate material, as defined in
4 subdivision (c) of Section 25210.5, in a quantity at any one time
5 during the reporting year that is equal to, or greater than, the
6 thresholds listed in paragraph (1).

7 (b) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained
8 by a physician, dentist, podiatrist, veterinarian, or pharmacist, at
9 his or her office or place of business, stored at each office or place
10 of business in quantities of not more than 1,000 cubic feet of each
11 material at any one time, are exempt from this section and from
12 Section 25506. The unified program agency may require a one-time
13 inventory of these materials for a fee not to exceed fifty dollars
14 (\$50) to pay for the costs incurred by the agency in processing the
15 inventory forms.

16 (c) (1) Lubricating oil is exempt from this section and Sections
17 25506 and 25508, for a single business facility, if the total volume
18 of each type of lubricating oil handled at that facility does not
19 exceed 55 gallons and the total volume of all types of lubricating
20 oil handled at that facility does not exceed 275 gallons, at any one
21 time.

22 (2) For purposes of this paragraph, “lubricating oil” means oil
23 intended for use in an internal combustion crankcase, or the
24 transmission, gearbox, differential, or hydraulic system of an
25 automobile, bus, truck, vessel, airplane, heavy equipment, or other
26 machinery powered by an internal combustion or electric powered
27 engine. “Lubricating oil” does not include used oil, as defined in
28 subdivision (a) of Section 25250.1.

29 (d) Oil-filled electrical equipment that is not contiguous to an
30 electric facility is exempt from this section and Sections 25506
31 and 25508 if the aggregate capacity is less than 1,320 gallons.

32 (e) Hazardous material contained solely in a consumer product
33 for direct distribution to, and use by, the general public is exempt
34 from the business plan requirements of this article unless the
35 unified program agency has found, and has provided notice to the
36 business handling the product, that the handling of certain
37 quantities of the product requires the submission of a business
38 plan, or any portion thereof, in response to public health, safety,
39 or environmental concerns.

(f) In addition to the authority specified in subdivision (h), the unified program agency may, in exceptional circumstances, following notice and public hearing, exempt a hazardous substance specified in subdivision (o) of Section 25501 from Section 25506, if the unified program agency finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The unified program agency shall specify in writing the basis for granting an exemption under this subdivision. The unified program agency shall send a notice to the office within five days from the effective date of any exemption granted pursuant to this subdivision.

(g) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(h) The unified program agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(i) The unified program agency shall adopt procedures to provide for public input when approving applications submitted pursuant to subdivisions (g) and (h).

25507.1. (a) A unified program agency shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information in the business plan required by paragraphs (3) and (4) of subdivision (a) of Section 25505 if all of the following requirements are met:

1 (1) The agricultural handler annually submits the inventory of
2 information required by Section 25505 to the statewide
3 environmental reporting system.

4 (2) Each building in which hazardous materials subject to this
5 article are stored is posted with signs, in accordance with
6 regulations that the office shall adopt, that provide notice of the
7 storage of any of the following:

8 (A) Pesticides.

9 (B) Petroleum fuels and oil.

10 (C) Types of fertilizers.

11 (3) The agricultural handler provides the training programs
12 specified in paragraph (4) of subdivision (a) of Section 25505.

13 (b) The unified program agency may designate the county
14 agricultural commissioner to conduct the inspections of agricultural
15 handlers. The agricultural commissioner shall schedule and conduct
16 inspections in accordance with Section 25511.

17 25507.2. (a) The unified program agency shall exempt a
18 business operating an unstaffed remote facility located in an
19 isolated sparsely populated area from Sections 25506 and 25507
20 if the facility is not otherwise subject to the requirements of
21 applicable federal law, and all of the following requirements are
22 met:

23 (1) The types and quantities of materials onsite are limited to
24 one or more of the following:

25 (A) One thousand standard cubic feet of compressed inert gases
26 (asphyxiation and pressure hazards only).

27 (B) Five hundred gallons of combustible liquid used as a fuel
28 source.

29 (C) Two hundred gallons of corrosive liquids used as electrolytes
30 in closed containers.

31 (D) Five hundred gallons of lubricating and hydraulic fluids.

32 (E) One thousand two hundred gallons of flammable gas used
33 as a fuel source.

34 (F) Any quantity of mineral oil contained within electrical
35 equipment, such as transformers, bushings, electrical switches,
36 and voltage regulators, if the spill prevention control and
37 countermeasure plan has been prepared for quantities that meet or
38 exceed 1,320 gallons.

39 (2) The facility is secured and not accessible to the public.

1 (3) Warning signs are posted and maintained for hazardous
2 materials pursuant to the California Fire Code.

3 (4) A one-time notification and inventory are provided to the
4 unified program agency along with a processing fee in lieu of the
5 existing fee. The fee shall not exceed the actual cost of processing
6 the notification and inventory, including a verification inspection,
7 if necessary.

8 (5) If the information contained in the initial notification or
9 inventory changes and the time period of the change is longer than
10 30 days, the notification or inventory shall be resubmitted within
11 30 days to the unified program agency to reflect the change, along
12 with a processing fee, in lieu of the existing fee, that does not
13 exceed the actual cost of processing the amended notification or
14 inventory, including a verification inspection, if necessary.

15 (6) The unified program agency shall forward a copy of the
16 notification and inventory to those agencies that share responsibility
17 for emergency response.

18 (7) The unified program agency may require an unstaffed remote
19 facility to submit a hazardous materials business plan and inventory
20 in accordance with this article if the agency finds that special
21 circumstances exist so that development and maintenance of the
22 business plan and inventory are necessary to protect the public
23 health and safety and the environment.

24 (b) On-premises use, storage, or both, of propane in an amount
25 not to exceed 500 gallons that is for the sole purpose of cooking,
26 heating the employee work areas, and heating water, within that
27 business, is exempt from Section 25507, unless the uniform
28 program agency finds, and provides notice to the business handling
29 the propane, that the handling of the on-premise propane requires
30 the submission of a business plan, or any portion of a business
31 plan, in response to public health, safety, or environmental
32 concerns.

33 (c) The unified program agency shall provide all information
34 obtained from completed inventory forms, upon request, to
35 emergency rescue personnel on a 24-hour basis.

36 25508. (a) (1) A handler shall electronically submit its
37 business plan to the statewide information management system in
38 accordance with the requirements of this article and certify that
39 the business plan meets the requirements of this article.

(2) If, after review, the unified program agency determines that the handler's business plan is deficient in satisfying the requirements of this article or the regulations adopted pursuant to Section 25503, the unified program agency shall notify the handler of those deficiencies. The handler shall electronically submit a corrected business plan within 30 days from the date of the notice.

(3) If a handler fails, after reasonable notice, to electronically submit a business plan in compliance with this article, the unified program agency shall take appropriate action to enforce this article, including the imposition of civil and criminal penalties as specified in this article.

(4) For data not adopted in the manner established under the standards adopted pursuant to subdivision (e) of Section 25404, and that is reported using a document format, the use of a reporting method accepted by the statewide information management system shall be considered compliance with the requirement to submit that data. If the reporting option used does not support public records requests from the public, the handler shall provide requested documents to the unified program agency within 10 business days of a request from the unified program agency.

(b) A handler shall review the business plan submitted pursuant to subdivision (a) at least once every three years to determine if a revision is needed and shall certify to the unified program agency that the review was made and that any necessary changes were made to the plan.

(c) Unless exempted from the business plan requirements under this article, a handler shall annually review the business plan information and resubmit or certify as correct the inventory information in the statewide environmental reporting system.

(d) A business required to establish, implement, and electronically submit a business plan pursuant to subdivision (a) shall not be deemed to be in violation of this article until 30 days after the business becomes subject to subdivision (a), unless the unified program agency requests the business to establish, implement, and electronically submit the business plan at an earlier date.

25508.1. Within 30 days of any one of the following events, a business subject to this article shall electronically update the information submitted to the statewide environmental reporting system:

1 (a) A 100 percent or more increase in the quantity of a
2 previously disclosed material.

3 (b) Any handling of a previously undisclosed hazardous material
4 subject to the inventory requirements of this article.

5 (c) Change of business address.

6 (d) Change of business ownership.

7 (e) Change of business name.

8 (f) A substantial change in the handler's operations occurs that
9 requires modification to any portion of the business plan.

10 25509. (a) The unified program agency shall update its
11 administrative procedures with regard to maintaining records and
12 responding to requests for information in accordance with
13 Subdivision 4 (commencing with Section 15100) of Division 1 of,
14 and Division 3 of, Title 27 of the California Code of Regulations,
15 as those regulations read on January 1, 2014. ~~The unified~~ *unified*
16 program agency shall make the data elements and documents
17 submitted pursuant to this article available for public inspection
18 during the regular working hours of the unified program agency,
19 except that the data elements and documents specifying the precise
20 location where hazardous materials are stored and handled onsite,
21 including any maps required by paragraph (2) of subdivision (a)
22 of Section 25505, shall not be available for inspection. The unified
23 program agency shall make the data elements and documents
24 submitted pursuant to this article available to a requesting
25 government agency that is authorized by law to access the
26 information.

27 (b) A person who submits inventory information required under
28 Section 25506 with the unified program agency shall be deemed
29 to have filed the inventory form required by Section 11022(a) of
30 Title 42 of the United States Code with the state emergency
31 response commission and emergency planning committee
32 established pursuant to Section 11001 of Title 42 of the United
33 States Code.

34 (c) The unified program agency shall, upon request, transmit
35 the information collected pursuant to this chapter to the Chemical
36 Emergency Planning and Response Commission, established by
37 the Governor as the state emergency response commission pursuant
38 to Section 11001(a) of Title 42 of the United States Code, and to
39 the local emergency planning committee established pursuant to
40 Section 11001(c) of Title 42 of the United States Code.

1 25510. (a) Except as provided in subdivision (b), the handler
2 or an employee, authorized representative, agent, or designee of
3 a handler, shall, upon discovery, immediately report any release
4 or threatened release of a hazardous material to the unified program
5 agency, and to the office, in accordance with the regulations
6 adopted pursuant to Section 25503. The handler or an employee,
7 authorized representative, agent, or designee of the handler shall
8 provide all state, city, or county fire or public health or safety
9 personnel and emergency rescue personnel with access to the
10 handler's facilities.

11 (b) Subdivision (a) does not apply to a person engaged in the
12 transportation of a hazardous material on a highway that is subject
13 to, and in compliance with, the requirements of Sections 2453 and
14 23112.5 of the Vehicle Code.

15 25510.1. (a) A business required to submit a followup
16 emergency notice pursuant to Section 11004(c) of Title 42 of the
17 United States Code shall submit the notice on a form approved by
18 the office.

19 (b) The office may adopt guidelines for the use of the forms
20 required by subdivision (a).

21 25510.2. In order to carry out the purposes of this chapter, a
22 unified program agency may train for, and respond to, the release,
23 or threatened release, of a hazardous material.

24 25510.3. The emergency rescue personnel, responding to the
25 reported release or threatened release of a hazardous material, or
26 of a regulated substance, as defined in Section 25532, or to any
27 fire or explosion involving a material or substance that involves a
28 release that would be required to be reported pursuant to Section
29 25510, shall immediately advise the superintendent of the school
30 district having jurisdiction, where the location of the release or
31 threatened release is within one-half mile of a school.

32 25511. (a) In order to carry out the purposes of this article and
33 Article 2 (commencing with Section 25531), an employee or
34 authorized representative of a unified program agency has the
35 authority specified in Section 25185, with respect to the premises
36 of a handler, and in Section 25185.5, with respect to real property
37 that is within 2,000 feet of the premises of a handler, except that
38 this authority shall include conducting inspections concerning
39 hazardous material, in addition to hazardous waste.

1 (b) In addition to the requirements of Section 25537, the unified
2 program agency shall conduct inspections of every business subject
3 to this article at least once every three years to determine if the
4 business is in compliance with this article. The unified program
5 agency shall give priority, when conducting these inspections, to
6 inspecting facilities that are required to prepare a risk management
7 plan pursuant to Article 2 (commencing with Section 25531). In
8 establishing a schedule for conducting inspections pursuant to this
9 section, the unified program agency may adopt and use an index
10 of the volatility, toxicity, and quantity of regulated substances and
11 hazardous materials. A unified program agency shall attempt to
12 schedule the inspections conducted pursuant to this section and
13 Section 25537, when applicable, during the same time period.

14 (c) The unified program agency may designate the county
15 agricultural commissioner to conduct the inspection of agricultural
16 handlers for purposes of Section 25507.1.

17 25512. (a) As used in this section, “trade secret” means a trade
18 secret as defined in either subdivision (d) of Section 6254.7 of the
19 Government Code or Section 1061 of the Evidence Code.

20 (b) (1) If a business believes that the inventory required by this
21 article involves the release of a trade secret, the business shall
22 nevertheless provide this information to the unified program
23 agency, and shall notify the unified program agency in writing of
24 that belief on the inventory form.

25 (2) Subject to subdivisions (d) and (e), the unified program
26 agency shall protect from disclosure any information designated
27 as a trade secret by the business pursuant to paragraph (1).

28 (c) (1) Upon the receipt of a request for the release of
29 information to the public that includes information that the business
30 has notified the unified program agency is a trade secret pursuant
31 to paragraph (1) of subdivision (b), the unified program agency
32 shall notify the business in writing of the request by certified mail,
33 return receipt requested.

34 (2) The unified program agency shall release the requested
35 information to the public 30 days or more after the date of mailing
36 to the business the notice of the request for information, unless,
37 prior to the expiration of the 30-day period, the business files an
38 action in an appropriate court for a declaratory judgment that the
39 information is subject to protection under subdivision (b) or for

1 an injunction prohibiting disclosure of the information to the public,
2 and promptly notifies the unified program agency of that action.

3 (3) This subdivision does not permit a business to refuse to
4 disclose the information required pursuant to this section to the
5 unified program agency.

6 (d) Except as provided in subdivision (c), any information that
7 has been designated as a trade secret by a business is confidential
8 information for purposes of this section and shall not be disclosed
9 to anyone except the following:

10 (1) An officer or employee of the county, city, state, or the
11 United States, in connection with the official duties of that officer
12 or employee under any law for the protection of health, or
13 contractors with the county, city, state and their employees if, in
14 the opinion of the unified program agency, disclosure is necessary
15 and required for the satisfactory performance of a contract, for
16 performance of work, or to protect the health and safety of the
17 employees of the contractor.

18 (2) A physician if the physician certifies in writing to the unified
19 program agency that the information is necessary to the medical
20 treatment of the physician's patient.

21 (e) A physician who, by virtue of having obtained possession
22 of, or access to, confidential information, and who, knowing that
23 disclosure of the information to the general public is prohibited
24 by this section, knowingly and willfully discloses the information
25 in any manner to a person not entitled to receive it, is guilty of a
26 misdemeanor.

27 (f) An officer or employee of the county or city, or former
28 officer or employee who, by virtue of that employment or official
29 position, has possession of, or has access to, confidential
30 information, and who, knowing that disclosure of the information
31 to the general public is prohibited by this section, knowingly and
32 willfully discloses the information in any manner to a person not
33 entitled to receive it, is guilty of a misdemeanor. A contractor with
34 the county or city and an employee of the contractor, who has been
35 furnished information as authorized by this section, shall be
36 considered an employee of the county or city for purposes of this
37 section.

38 25512.5. Notwithstanding Section 25512, information certified
39 by appropriate officials of the United States as necessary to be
40 kept secret for national defense purposes shall be accorded the full

1 protections against disclosure as specified by those officials or in
2 accordance with the laws of the United States.

3 25513. Each administering county or city may, upon a majority
4 vote of the governing body, adopt a schedule of fees to be collected
5 from each business required to submit a business plan pursuant to
6 this article that is within its jurisdiction. The governing body may
7 provide for the waiver of fees when a business, as defined in
8 paragraph (3), (4), or (5) of subdivision (c) of Section 25501,
9 submits a business plan. The fee shall be set in an amount sufficient
10 to pay only those costs incurred by the unified program agency in
11 carrying out this article. In determining the fee schedule, the unified
12 program agency shall consider the volume and degree of hazard
13 potential of the hazardous materials handled by the businesses
14 subject to this article.

15 25514.1. Notwithstanding any other law, a public entity shall
16 not be held liable for any injury or damages resulting from an
17 inadequate or negligent review of a business plan conducted
18 pursuant to Section 25508.

19 25514.2. (a) The submission of any information required under
20 this article does not affect any other liability or responsibility of
21 a business with regard to safeguarding the health and safety of an
22 employee or any other person.

23 (b) Compliance with this article shall not be deemed to be
24 compliance with the duty of care required of any business for
25 purposes of any judicial or administrative proceeding conducted
26 pursuant to any other provision of law.

27 25515. (a) A business that violates Sections 25504 to 25508.1,
28 inclusive, or Section 25510.1, shall be civilly liable to the unified
29 program agency in an amount of not more than two thousand
30 dollars (\$2,000) for each day in which the violation occurs. If the
31 violation results in, or significantly contributes to, an emergency,
32 including a fire, the business shall also be assessed the full cost of
33 the county or city emergency response, as well as the cost of
34 cleaning up and disposing of the hazardous materials.

35 (b) A business that knowingly violates Sections 25504 to
36 25508.1, inclusive, or Section 25510.1, after reasonable notice of
37 the violation shall be civilly liable to the unified program agency
38 in an amount not to exceed five thousand dollars (\$5,000) for each
39 day in which the violation occurs.

1 25515.1. A person that knowingly violates Sections 25504 to
2 25508.1, inclusive, or Section 25510.1, after reasonable notice of
3 the violation, is, upon conviction, guilty of a misdemeanor. This
4 section does not preempt any other applicable criminal or civil
5 penalties.

6 25515.2. (a) Notwithstanding Section 25515, a business that
7 violates this article is liable to a unified program agency for an
8 administrative penalty not greater than two thousand dollars
9 (\$2,000) for each day in which the violation occurs. If the violation
10 results in, or significantly contributes to, an emergency, including
11 a fire or health or medical problem requiring toxicological, health,
12 or medical consultation, the business shall also be assessed the full
13 cost of the county, city, fire district, local EMS agency designated
14 pursuant to Section 1797.200, or poison control center as defined
15 by Section 1797.97, emergency response, as well as the cost of
16 cleaning up and disposing of the hazardous materials.

17 (b) Notwithstanding Section 25515, a business that knowingly
18 violates this article after reasonable notice of the violation is liable
19 for an administrative penalty, not greater than five thousand dollars
20 (\$5,000) for each day in which the violation occurs.

21 (c) When a unified program agency issues an enforcement order
22 or assesses an administrative penalty, or both, for a violation of
23 this article, the unified program agency shall utilize the
24 administrative enforcement procedures, including the hearing
25 procedures, specified in Sections 25404.1.1 and 25404.1.2.

26 25515.3. (a) A person or business who violates Section 25510
27 shall, upon conviction, be punished by a fine of not more than
28 twenty-five thousand dollars (\$25,000) for each day of violation,
29 by imprisonment in a county jail for not more than one year, or by
30 both the fine and imprisonment. If the conviction is for a violation
31 committed after a first conviction under this section, the person
32 shall be punished by a fine of not less than two thousand dollars
33 (\$2,000) or more than fifty thousand dollars (\$50,000) per day of
34 violation, by imprisonment pursuant to subdivision (h) of Section
35 1170 of the Penal Code for 16, 20, or 24 months or in a county jail
36 for not more than one year, or by both the fine and imprisonment.
37 Furthermore, if the violation results in, or significantly contributes
38 to, an emergency, including a fire, to which the county or city is
39 required to respond, the person shall also be assessed the full cost

1 of the county or city emergency response, as well as the cost of
2 cleaning up and disposing of the hazardous materials.

3 (b) Notwithstanding subdivision (a), a person who knowingly
4 fails to report, pursuant to Section 25510, an oil spill occurring in
5 waters of the state, other than marine waters, shall, upon conviction,
6 be punished by a fine of not more than fifty thousand dollars
7 (\$50,000), by imprisonment in a county jail for not more than one
8 year, or by both that fine and imprisonment.

9 (c) Notwithstanding subdivision (a), a person who knowingly
10 makes a false or misleading report on an oil spill occurring in
11 waters of the state, other than marine waters, shall, upon conviction,
12 be punished by a fine of not more than fifty thousand dollars
13 (\$50,000), by imprisonment in a county jail for not more than one
14 year, or by both that fine and imprisonment.

15 (d) This section does not preclude prosecution or sentencing
16 under other provisions of law.

17 25515.4. A person who willfully prevents, interferes with, or
18 attempts to impede the enforcement of this article by any authorized
19 representative of a unified program agency is, upon conviction,
20 guilty of a misdemeanor.

21 25515.5. (a) All criminal penalties collected pursuant to this
22 article shall be apportioned in the following manner:

23 (1) Fifty percent shall be paid to the office of the city attorney,
24 district attorney, or Attorney General, whichever office brought
25 the action.

26 (2) Fifty percent shall be paid to the agency which is responsible
27 for the investigation of the action.

28 (b) All civil penalties collected pursuant to this chapter shall be
29 apportioned in the following manner:

30 (1) Fifty percent shall be paid to the office of the city attorney,
31 district attorney, or Attorney General, whichever office brought
32 the action.

33 (2) Fifty percent shall be paid to the agency responsible for the
34 investigation of the action.

35 (c) If a reward is paid to a person pursuant to Section 25517,
36 the amount of the reward shall be deducted from the amount of
37 the criminal or civil penalty before the amount is apportioned
38 pursuant to subdivisions (a) and (b).

39 25515.6. (a) If the unified program agency determines that a
40 business has engaged in, is engaged in, or is about to engage in

1 acts or practices that constitute or will constitute a violation of this
2 article or a regulation or order adopted or issued pursuant to this
3 article, and when requested by the unified program agency, the
4 city attorney of the city or the district attorney of the county in
5 which those acts or practices have occurred, are occurring, or will
6 occur shall apply to the superior court for an order enjoining the
7 acts or practices for an order directing compliance, and, upon a
8 showing that the person or business has engaged in, is engaged in,
9 or is about to engage in the acts or practices, a permanent or
10 temporary injunction, restraining order, or other appropriate order
11 may be granted.

12 (b) This section does not prohibit a city attorney or district
13 attorney from seeking the same relief upon the city attorney's or
14 district attorney's own motion.

15 25515.7. Every civil action brought under this article or Article
16 2 (commencing with Section 25531) shall be brought by the city
17 attorney, district attorney, or Attorney General in the name of the
18 people of the State of California, and any actions relating to the
19 same violation may be joined or consolidated.

20 25515.8. (a) In a civil action brought pursuant to this article
21 or Article 2 (commencing with Section 25531) in which a
22 temporary restraining order, preliminary injunction, or permanent
23 injunction is sought, it is not necessary to allege or prove at any
24 stage of the proceeding any of the following:

25 (1) Irreparable damage will occur should the temporary
26 restraining order, preliminary injunction, or permanent injunction
27 not be issued.

28 (2) The remedy at law is inadequate.

29 (b) The court shall issue a temporary restraining order,
30 preliminary injunction, or permanent injunction in a civil action
31 brought pursuant to this article or Article 2 (commencing with
32 Section 25531) without the allegations and without the proof
33 specified in subdivision (a).

34 25517. (a) A person who provides information that materially
35 contributes to the imposition of a civil penalty, whether by
36 settlement or court order, under Section 25515 or 25515.2, as
37 determined by the city attorney, district attorney, or the Attorney
38 General filing the action, shall be paid a reward by the unified
39 program agency or the state equal to 10 percent of the amount of
40 the civil penalty collected. The reward shall be paid from the

1 amount of the civil penalty collected. No reward paid pursuant to
2 this subdivision shall exceed five thousand dollars (\$5,000).

3 (b) A person who provides information that materially
4 contributes to the conviction of a person or business under Section
5 25515.1 or 25515.3, as determined by the city attorney, district
6 attorney, or the Attorney General filing the action, shall be paid a
7 reward by the unified program agency or the state equal to 10
8 percent of the amount of the fine collected. The reward shall be
9 paid from the amount of the fine collected. No reward paid pursuant
10 to this subdivision shall exceed five thousand dollars (\$5,000).

11 (c) An informant shall not be eligible for a reward for a violation
12 known to the unified program agency, unless the information
13 materially contributes to the imposition of criminal or civil
14 penalties for a violation specified in this section.

15 (d) If there is more than one informant for a single violation,
16 the person making the first notification received by the office which
17 brought the action shall be eligible for the reward, except that, if
18 the notifications are postmarked on the same day or telephoned
19 notifications are received on the same day, the reward shall be
20 divided equally among those informants.

21 (e) Public officers and employees of the United States, the State
22 of California, or counties and cities in this state are not eligible for
23 the reward pursuant to subdivision (a) or (b), unless the providing
24 of the information does not relate in any manner to their
25 responsibilities as public officers or employees.

26 (f) An informant who is an employee of a business and who
27 provides information that the business has violated this chapter is
28 not eligible for a reward if the employee intentionally or negligently
29 caused the violation or if the employee's primary and regular
30 responsibilities included investigating the violation, unless the
31 business knowingly caused the violation.

32 (g) The unified program agency or the state shall pay rewards
33 under this section pursuant to the following procedures:

34 (1) An application shall be signed by the informant and
35 presented to the unified program agency or the state within 60 days
36 after a final judgment has been entered or the period for an appeal
37 of a judgment has expired.

38 (2) The determination by the district attorney, city attorney, or
39 Attorney General as to whether the information provided by the

1 applicant materially contributed to the imposition of a judgment
2 under Section 25515.1 or 25515.3 shall be final.

3 (3) The unified program agency or the state shall notify the
4 applicant in writing of its decision to grant or deny a reward within
5 a reasonable time period following the filing of an application.

6 (4) Approved reward claims shall be paid by the unified program
7 agency or the state within 30 days of the collection and deposit of
8 the penalties specified in subdivisions (a) and (b).

9 (h) The names of reward applicants or informants shall not be
10 disclosed by the unified program agency or the state unless the
11 names are otherwise publicly disclosed as part of a judicial
12 proceeding.

13 (i) Notwithstanding any other provision of this section, rewards
14 paid by the state shall only be paid after appropriation by the
15 Legislature.

16 25518. The office may develop materials, including guidelines
17 and informational pamphlets, to assist businesses to fulfill their
18 obligations under this article.

19 25519. This article shall be construed liberally so as to
20 accomplish the intent of the Legislature in protecting the public
21 health, safety, and the environment.

22 25520. If any provision of this article or the application thereof
23 to any person or circumstances is held invalid, that invalidity shall
24 not affect other provisions or applications of this article that can
25 be given effect without the invalid provision or application, and
26 to that end the provisions of this article are severable.

27 ~~SEC. 4.~~

28 *SEC. 5.* No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 a local agency or school district has the authority to levy service
31 charges, fees, or assessments sufficient to pay for the program or
32 level of service mandated by this act or because costs that may be
33 incurred by a local agency or school district will be incurred
34 because this act creates a new crime or infraction, eliminates a
35 crime or infraction, or changes the penalty for a crime or infraction,
36 within the meaning of Section 17556 of the Government Code, or
37 changes the definition of a crime within the meaning of Section 6
38 of Article XIII B of the California Constitution.

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